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8 WASTE MANAGEMENT OF ALAMEDA COUNTY, INC.

9 UNITED STATES DISTRICT COURT

10 NORTHERN DISTRICT OF CALIFORNIA

11
12 WASTE MANAGEMENT OF ALAMEDA
COUNTY, INC.,

13 Plaintiff,

14 v.

15 WAREHOUSE UNION LOCAL NO. 6,
16 INTERNATIONAL LONGSHORE AND
WAREHOUSE UNION,

17 Defendant.
18

19
20 COMES NOW Plaintiff Waste Management of Alameda County, Inc. ("Plaintiff" or
21 "WMAC") and complains against Defendant Warehouse Union Local No. 6, International
22 Longshore and Warehouse Union ("Defendant," "Local 6," or "the Union"), as follows:

23 **JURISDICTION**

24 1. This is a suit for damages pursuant to Section 301(a) of the Labor
25 Management Relations Act ("LMRA"), 29 U.S.C. §185(a) (hereinafter referred to as "Section 301").
26 This Court has jurisdiction under Section 301, under 28 U.S.C. §1331 relating to civil actions arising
27
28

ORIGINAL
FILED

JUL 17 2007

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

E-filing

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Case No

3675

COMPLAINT FOR DAMAGES
UNDER 29 U.S.C. §185(a)

1 under the Constitution, laws and treaties of the United States, and under 28 U.S.C. §1337 relating to
2 civil actions or proceedings arising under an act of Congress regulating commerce.

3 VENUE

4 2. Venue is proper in the Northern District of California under 28 U.S.C. §§
5 84(a) and 1391(b) because a substantial part of the events or omissions giving rise to this action
6 occurred in this judicial district.

7 INTRADISTRICT ASSIGNMENT

8 3. This case should be assigned to either the San Francisco Division or the
9 Oakland Division of the United States District Court for the Northern District of California, in that a
10 substantial part of the events or omissions giving rise to the claims for relief occurred in Alameda
11 County. Northern District Civil Local Rule 3-2(c),(d); 3-5(b).

12 PARTIES

13 4. Plaintiff is, and at all material times was, a corporation organized and existing
14 under the laws of the State of California with its principal place of business in Alameda County,
15 California, with facilities located throughout Alameda County.

16 5. Plaintiff is an enterprise engaged in the business of comprehensive waste
17 management services, specializing in the collection, disposal, transportation and recycling of waste
18 and landfill operations, and other related facilities in the Alameda County area. Those facilities are
19 located at 172 98th Avenue in Oakland, California ("WMAC Hauling"); 2615 Davis Street in San
20 Leandro, California ("Davis Street Transfer Station"); 7010 Automall Parkway in Fremont,
21 California ("Tri-Cities Recycling and Disposal Facility"); 10840 Altamont Pass Road in Livermore,
22 California ("Altamont Landfill & Resource Recovery Facility"); and 6175 Southfront Road in
23 Livermore, California ("Livermore Dublin Disposal Facility").

24 6. Plaintiff is, and at all times material hereto was, an employer engaged in
25 commerce and in an industry affecting commerce as defined in 29 U.S.C. §142(1) and (3) and
26 29 U.S.C. §152(2), (6) and (7), and within the meaning of Section 301.

27 7. Defendant Local 6 is, and at all times material hereto was, a voluntary
28 unincorporated association and labor union organized and existing under the laws of the State of

1 California with its principal place of business in Alameda County, California. Local 6 maintains an
 2 office and place of business at 99 Hegenberger Road, Oakland, California 94621.

3 8. Local 6 is a labor organization within the meaning of Section 2(5) of the
 4 National Labor Relations Act ("NLRA"), 29 U.S.C. §152(5), and a labor organization representing
 5 employees in an industry affecting commerce within the meaning of Section 301. At all times
 6 material hereto, Local 6 acted as a labor organization representing certain of Plaintiff's employees,
 7 including employees at the following location(s): WMAC Hauling, Davis Street Transfer Station,
 8 Tri-Cities Recycling and Disposal Facility, Altamont Landfill & Resource Recovery Facility,
 9 Livermore Dublin Disposal Facility.

10 CITIZENSHIP OR AMOUNT IN CONTROVERSY

11 9. Under Section 301, United States District Courts have original jurisdiction of
 12 actions arising out of violations of contracts between employers and labor organizations, regardless
 13 of citizenship or amount in controversy.

14 FACTUAL ALLEGATIONS

15 10. Plaintiff has entered into a series of collective bargaining agreements with
 16 Local 6 covering certain of Plaintiff's employees. Plaintiff currently has three collective bargaining
 17 agreements ("the Agreements") between the Parties covering three separate bargaining units:
 18 Clerical, Recycling, and Site Maintenance.

19 11. The Clerical Agreement covers the period from November 1, 2004 through
 20 October 31, 2009. A true and correct copy of the Clerical Agreement is attached hereto as Exhibit A
 21 and is incorporated herein by reference as though fully set forth. The Clerical Agreement covers
 22 Plaintiff's employees employed as full-time and regular part-time office clericals, including
 23 customer service representatives (CSRs), lead CSRs, payroll clerks, cash processing clerks, accounts
 24 payable clerks, collections clerks, accounts receivable clerks, operations clerks, dispatch clerks,
 25 maintenance clerks, switchboard operators, receptionists, data entry clerks and mail room clerks at
 26 WMAC Hauling, Davis Street Transfer Station, Tri-Cities Recycling and Disposal Facility,
 27 Altamont Landfill & Resource Recovery Facility, and Livermore Dublin Disposal Facility.

12. The Recycling Agreement covers the period from June 1, 2005 through May 31, 2010. A true and correct copy of the Recycling Agreement is attached hereto as Exhibit B and is incorporated herein by reference as though fully set forth. The Recycling Agreement covers certain of Plaintiff's employees employed as Recycling Sorters/Material Handlers and Recycling Equipment Operators at the Davis Street Transfer Station.

13. The Site Maintenance Agreement covers the period from January 25, 2005 through January 24, 2011. A true and correct copy of the Site Maintenance Agreement is attached hereto as Exhibit C and is incorporated herein by reference as though fully set forth. The Site Maintenance Agreement covers Plaintiff's employees employed as Site Maintenance employees, Utility Operators, Collectors, and Heavy Equipment Operators at the Tri-Cities Recycling and Disposal Facility and the Altamont Landfill & Resource Recovery Facility, and for Utility-Salvage employees and Collectors at the Davis Street Transfer Station.

14. The Agreements between Plaintiff and Local 6 contain nearly identical "No-strike/No-lockout" provisions which prohibit strikes during the term of the Agreements. The "No-strike/No-lockout" provisions provide, in relevant part, that:

The Union, its members and representatives agree that it and they will not engage in, authorize, sanction or support any strike, slowdown, stoppage of work, curtailment of production, concerted refusal of overtime work, refusal to operate designated equipment (provided such equipment is safe and sound) or to perform customary duties, or to reject promotions without justifiable personal reasons.

Neither the Union nor any representative thereof shall engage in job action for the purpose of effecting changes in the existing practices, nor to effect a change of personnel or operations of management or of employees not covered by this Agreement.

The relevant "No Strikes-No Lockouts" provisions are located in Section 24 of the Clerical Agreement (See Exhibit A), Section 12 of the Recycling Agreement (See Exhibit B), and Section 11 of the Site Maintenance Agreement (See Exhibit C).

15. On or about July 12, 2005, WMAC and Local 6 entered into a letter of understanding to clarify the "No-strike/No-lockout" clauses of the Agreements. A true and correct copy of the Letter of Understanding is attached hereto as Exhibit D and is incorporated herein by reference as though fully set forth. The Letter of Understanding provides, in relevant part, that:

1 The Union, its members and representatives agree that it and they will
 2 not engage in, authorize, sanction, or support any strike, slowdown,
 3 stoppage of work, curtailment of production, concerted refusal of
 4 overtime work, refusal to operate designated equipment (provided
 such equipment is safe and sound) or to perform customary duties or to
 reject promotions without justifiable, personal reasons. The parties
 interpret the above language to prohibit sympathy strikes.

5 16. The Letter of Understanding was incorporated in Section 24 of the Clerical
 6 Agreement, Section 12 of the Recycling Agreement, and Section 11 of the Site Maintenance
 7 Agreement.

8 17. The Agreements between Plaintiff and Local 6 contain nearly identical
 9 provisions which give Local 6 employees the right to refuse to cross a lawful primary picket line.
 10 The picket line clause provides as follows:

11 Any action of the employees leaving jobs for their own protection in
 12 cases of a legally declared strike by some other union directly working
 13 on the job, if such strike is sanctioned and approved by the Labor
 Body, or Council having jurisdiction, shall not constitute a violation of
 this Agreement.

14 The picket line provisions are located in Section 24(b) of the Clerical Agreement (See Exhibit A),
 15 Section 12(b) of the Recycling Agreement (See Exhibit B), and Section 11(b) of the Site
 16 Maintenance Agreement (See Exhibit C).

17 18. International Brotherhood of Teamsters, Local Union 70 ("Local 70") is, and
 18 at all times material hereto was, a voluntary unincorporated association in which employees
 19 participate and which exists, in whole or in part, for the purpose of dealing with employers
 20 concerning grievances, labor disputes, wages, pay scales, hours of employment or conditions of
 21 work.

22 19. Local 70's principal place of business is located at 70 Hegenberger Road,
 23 Oakland, CA 94621. Local 70 is a labor organization within the meaning of Section 2(5) of the
 24 NLRA, 29 U.S.C. §152(5).

25 20. Local 70 and WMAC have been parties to a series of collective bargaining
 26 agreements covering certain of WMAC's employees. Their most recent collective bargaining
 27 agreement expired on or about June 30, 2007. Negotiations between Local 70 and WMAC have
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1 failed to result in a new collective bargaining agreement. Local 70 and WMAC are engaged in a
2 labor dispute arising out of their respective bargaining demands relating to their negotiation of a new
3 collective bargaining agreement covering certain of WMAC's employees.

4 21. On July 2, 2007, WMAC implemented a lockout of all Local 70 bargaining
5 unit employees that was effective on that date at 5:00 p.m..

6 22. On July 3, 2007, Local 70 established picket lines in front of WMAC's
7 facilities located at WMAC Hauling, Davis Street Transfer Station, Tri-Cities Recycling and
8 Disposal Facility, Altamont Landfill & Resource Recovery Facility, Livermore Dublin Disposal
9 Facility. Local 70 established these picket lines in support of its labor dispute with WMAC.

10 23. Starting on July 3, 2007, and continuing to date, some WMAC employees
11 who are members of all three Local 6 bargaining units have refused to cross the picket lines
12 established by Local 70 in support of its labor dispute with WMAC.

13 24. Local 6 authorized, sanctioned, encouraged, caused, supported, condoned
14 and/or ratified its members' refusal to cross Local 70's picket lines. Moreover, Local 6 coerced and
15 threatened its members with substantial monetary penalties and discharge if any of them were to go
16 to work thereby crossing any established Local 70 picket line.

17 25. Specifically, on or about June 27, 2007, June 28 and again during a Union
18 meeting on June 30, 2007 with WMAC employee-members of Local 6, representatives of Local 6,
19 including union stewards Anjanette Levingston and Amy Gallo and Union business agents Fred
20 Pecker and Efren Alarcon, informed members of Local 6 employed by WMAC that Local 6 would
21 fine any member who crosses a Local 70 picket line \$500 for each time the member crosses such
22 picket line. For purposes of this Complaint, names of specific Local 6 employees are omitted based
23 on employees' fear of reprisal.

24 26. During the Union meeting on June 30, 2007, Union business agent Efren
25 Alarcon held up a copy of the Union's constitution and told WMAC employee-members that the
26 Constitution allowed the Union to impose such fines on anyone who crossed Local 70's picket line.
27 As a result, Plaintiff believes Local 6 employees did not cross picket lines for fear of being assessed
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multiple \$500 fines per day. For purposes of this Complaint, names of specific Local 6 employees are omitted based on employees' fear of reprisal.

27. In addition, from on or about July 3, 2007 continuing to the present date, Local 6 employees, with the knowledge and encouragement of Local 6, have joined Local 70 picket lines including carrying Local 70's picket signs.

28. Plaintiff's business is entirely reliant on continuity of service to customers, with whom WMAC has contractual relationships. The work stoppages caused by Local 6 and its members who are employees of WMAC have resulted in the shutdown of all or parts of clerical, recycle sorting, and site maintenance functions at Plaintiff's operations. Such interruption in Plaintiff's operations has severely hampered Plaintiff's ability to comply with its contractual obligations to its customers and the communities served by Plaintiff.

29. In addition, the Local 6 work stoppage created delays in services that resulted in substantial damages being incurred by Plaintiff.

CLAIM FOR RELIEF

[Section 301(a) of the Labor Management Relations Act, 29 U.S.C. §185(a)]

30. Plaintiffs allege the facts contained in Paragraphs 1 through 29 above as though set forth herein in their entirety.

31. Local 6 is strictly precluded from supporting this strike by encouraging its members to join a Local 70 picket or by coercing or threatening its members to respect Local 70's picket lines.

32. Plaintiff entered into the Agreements with Local 6 in good faith, *inter alia*, to obtain the regular, uninterrupted and faithful services of Local 6's members who are employees of Plaintiffs. In furtherance of this objective, Article 24 of the Clerical Agreement, Article 12 of the Recycle Agreement, and Article 11 of the Site Maintenance Agreement impose the contractual obligation on Local 6 and its members who are employees of Plaintiff not to engage in, support, sanction or encourage a strike or work stoppage during the term of the Agreement.

33. Moreover, while Local 6's members are permitted under the Agreements, under certain circumstances, to refuse to cross or work behind a lawful primary picket line, it is a

1 violation of the Agreements and federal labor law for Local 6 and its representatives to threaten any
2 fine, sanction, discipline, or discharge of any kind against members who wish to cross a Local 70
3 picket line, or are considering doing so.

4 34. Local 6 and its officers, agents, representatives and employees have
5 supervision and control over the actions and conduct of its members who are employees of Plaintiffs
6 and have the power to control and/or reverse any actions taken by these members.

7 35. Local 6 has also breached its contractual obligations to Plaintiff by failing to
8 take adequate affirmative steps necessary and available to it to prevent the illegal strike or work
9 stoppage by its members and by failing to take the necessary affirmative steps to terminate the
10 illegal, coercive and threatening conduct of its representatives and/or members described above. By
11 its failure to act, Local 6 has breached its Agreements with Plaintiff and has condoned and/or
12 acquiesced in the illegal conduct of its officers, agents and members and therefore has ratified such
13 conduct.

14 36. The conduct and actions of Local 6 and its members and/or the failure of
15 Local 6 to act to terminate the illegal conduct of its members, as described above, have breached the
16 Agreements, in particular the compulsory grievance and arbitration procedures and the no strike
17 provisions of the Agreements. As a result of Local 6's breach of the Agreements, Plaintiff has been
18 deprived of the benefits of the Agreements as well as the labor peace and stability attendant thereto.
19 As a result, Plaintiff's work, production and business operations have been seriously disrupted, all to
20 Plaintiff's substantial monetary damage and injury to its reputation and business good will.


21 37. As a direct and proximate result of the conduct and actions of Local 6 and its
22 members and/or the failure of Local 6 to act to terminate the illegal conduct of its officers, agents
23 and members, as described above, and Local 6's breach of the Agreements, Plaintiff has suffered
24 substantial monetary damages as well as substantial injury to its reputation and business good will in
25 a sum to be determined at trial, but in an amount in excess of \$75,000.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

1. For damages according to proof;
2. For any equitable relief that the Court deems just and proper;
3. For costs of suit and attorneys' fees incurred; and
4. For such other and further relief as the Court deems just and proper.

Dated: July 17, 2007


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